

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BUNGIE, INC.,

Plaintiffs,

v.

JOSHUA FISHER, et al.,

Defendants.

NO. 2:23-cv-01143-MLP

DECLARATION OF MARK KAUFMAN IN
SUPPORT OF MOTION TO QUASH

Mark S. Kaufman, under penalty of perjury, declares the following:

1. I am an attorney representing Objector in the above-entitled matter, and member of the Bar of the State of New York, a partner of the law firm Kaufman & Kahn, LLP, and contemporaneously with this motion filing for admission pro hac vice in this litigation.

2. We are attorneys for Non-Party John Doe ("Objector"), recipient of a subpoena that Plaintiff Bungie, Inc. ("Plaintiff" or "Bungie") served upon non-party Payward Interactive, Inc. ("Payward"), and I submit this Declaration in Support of Objector's Motion, pursuant to Fed Rules Civ. Proc. R. 45 ("Rule 45"), subpart (d)(3), to Quash a subpoena.

3. The following is based upon my personal knowledge, except for those matters stated to be based on information and belief, which matters I believe to be true based on the referenced documents and information provided by our client.

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1 4. A process server's cover sheet indicates that Payward received from Bungie a
2 subpoena dated October 29, 2024 (the "Subpoena") which demanded by November 23, 2024,
3 production of all information relating to a particular crypto "wallet". (A true and correct copy of
4 the Subpoena, including the cover sheet from the process server, is attached hereto as **Exhibit A.**)

5 5. The Subpoena purportedly was served on Payward on October 29, but Payward did
6 not forward the Subpoena to Objector until November 14, 2024. (A true and correct copy of the
7 email from Payward to Objector, redacted of the Objector's identifying information, is attached
8 hereto as **Exhibit B.**)

9 6. Objector is the accountholder for the wallet that is the subject of the Subpoena.

10 7. The Subpoena seeks production of all account information, including the
11 accountholder's personally identifying information (PII), for a crypto payment wallet specified in
12 Exhibit A to the Subpoena.

13 8. The Subpoena demands not only the identification of the wallet's accountholder
14 but also all of the transactions of such account and is not limited to obtaining transactions that
15 purportedly are relevant to the above-entitled lawsuit.

16 9. Objector did not receive the Subpoena until 16 days after service was purportedly
17 made on Payward on October 29, 2024 – two days after Objector's deadline to serve Bungie with
18 objections to the Subpoena, as required by Rule 45(d)(2)(B).

19 10. Because Objector did not receive notice of the Subpoena until 16 days after its
20 service on Payward, Objector did not have sufficient time to obtain counsel in the U.S. and in
21 Seattle in order to file a motion quash on or before such date.

22 11. The Subpoena was served on Payward, whose agent for service of process is
23 allegedly in Plantation, Florida and whose principal place of business is located in Cheyenne,
24 Wyoming. Thus, the Subpoena seeks production of documents and information to Bungie's
25 attorneys in New York, New York, more than 100 miles away from either location.
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12. Objector is located in and is a citizen of a member nation of the European Union; is not incorporated or organized under the laws of any state; and is not located in or maintain an office located in the United States.

13. Objector has an account with a European affiliate of Payward and upon information and belief Objector did not expressly authorize the affiliate to share any of the account-holder's information with Payward in the United States.

DATED this 25th day of November, 2024.

By: /s/ Mark S. Kaufman
Mark S. Kaufman
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CERTIFICATE OF SERVICE

The undersigned declares under penalty of perjury under the laws of the State of Washington that a true and accurate copy of the document to which this declaration is affixed was sent to the following, by the method indicated:

Dylan M. Schmeyer
**KAMERMAN, UNCYK, SONIKER &
KLEIN P.C.**
1700 Broadway, Floor 16
New York, NY 10019
dschmeyer@kusklaw.com

Counsel for _____

- ☒ via Electronic Court Filing (ECF)
☐ via Electronic Mail
☐ via USPS Mail
☐ via Federal Express
☐ via Hand-delivery
☐ Other: _____

DATED: November 25, 2024, at Seattle, Washington.



Susan Grimes, Legal Assistant

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